



中华人民共和国继承法

Law of Succession of the People's Republic of China

中华人民共和国收养法

Adoption Law of the People's Republic of China

中华人民共和国婚姻法

Marriage Law of the People's Republic of China

(中英对照)

(Chinese-English)

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目 录

| | |
|---|-------|
| 中华人民共和国继承法..... | (2) |
| Law of Succession of the People's Republic of China | (3) |
| 中华人民共和国收养法..... | (24) |
| Adoption Law of the People's Republic of China | (25) |
| 中华人民共和国婚姻法..... | (52) |
| Marriage Law of the People's Republic of China | (53) |

中华人民共和国主席令

第二十四号

《中华人民共和国继承法》已由中华人民共和国第六届全国人民代表大会第三次会议于一九八五年四月十日通过,现予公布,自一九八五年十月一日起施行。

中华人民共和国主席 **李先念**

一九八五年四月十日

Order of the President of the People's Republic of China

No. 24

The Law of Succession of the People's Republic of China, adopted at the Third Session of the Sixth National People's Congress of the People's Republic of China on April 10, 1985, is hereby promulgated and shall enter into force as of October 1, 1985.

Li Xiannian

President of the People's Republic of China

April 10, 1985

中华人民共和国继承法

(1985年4月10日第六届全国人民代表大会第三次会议通过)

目 录

- 第一章 总 则
- 第二章 法定继承
- 第三章 遗嘱继承和遗赠
- 第四章 遗产的处理
- 第五章 附 则

第一章 总 则

第一条 根据《中华人民共和国宪法》规定,为保护公民的私有财产的继承权,制定本法。

第二条 继承从被继承人死亡时开始。

第三条 遗产是公民死亡时遗留的个人合法财产,包括:

Law of Succession of the People's Republic of China

(Adopted at the Third Session of the Sixth National People's Congress, promulgated by Order No.24 of the President of the People's Republic of China on April 10, 1985, and effective as of October 1, 1985)

Contents

| | |
|-------------|------------------------------------|
| Chapter I | General Provisions |
| Chapter II | Statutory Succession |
| Chapter III | Testamentary Succession and Legacy |
| Chapter IV | Disposition of the Estate |
| Chapter V | Supplementary Provisions |

Chapter I General Provisions

Article 1 This Law is enacted pursuant to the provisions of the Constitution of the People's Republic of China with a view to protecting the right of citizens to inherit private property.

Article 2 Succession begins at the death of a citizen.

Article 3 Estate denotes the lawful property owned by a citizen personally at the time of his death, which consists of:

- (一)公民的收入；
- (二)公民的房屋、储蓄和生活用品；
- (三)公民的林木、牲畜和家禽；
- (四)公民的文物、图书资料；
- (五)法律允许公民所有的生产资料；
- (六)公民的著作权、专利权中的财产权利；
- (七)公民的其他合法财产。

第四条 个人承包应得的个人收益,依照本法规定继承。个人承包,依照法律允许由继承人继续承包的,按照承包合同办理。

第五条 继承开始后,按照法定继承办理;有遗嘱的,按照遗嘱继承或者遗赠办理;有遗赠扶养协议的,按照协议办理。

第六条 无行为能力人的继承权、受遗赠权,由他的法定代理人代为行使。

限制行为能力人的继承权、受遗赠权,由他的法定代理人代为行使,或者征得法定代理人同意后行使。

第七条 继承人有下列行为之一的,丧失继承权:

- (一)故意杀害被继承人的；
- (二)为争夺遗产而杀害其他继承人的；
- (三)遗弃被继承人的,或者虐待被继承人情节严重的；
- (四)伪造、篡改或者销毁遗嘱,情节严重的。

- (1) his income;
- (2) his houses, savings and articles of everyday use;
- (3) his forest trees, livestock and poultry;
- (4) his cultural objects, books and reference materials;
- (5) means of production lawfully owned by him;
- (6) his property rights pertaining to copyright and patent rights;

and

- (7) his other lawful property.

Article 4 Personal benefits accruing from a contract entered into by an individual are heritable in accordance with the provisions of this Law. Contracting by an individual, if permitted by law to be continued by the successor, shall be treated in accordance with the terms of the contract.

Article 5 Succession shall, after its opening, be handled in accordance with the provisions of statutory succession; where a will exists, it shall be handled in accordance with testamentary succession or as legacy; where there is an agreement for legacy in return for support, the former shall be handled in accordance with the terms of the agreement.

Article 6 The right to inheritance or legacy of a person without capacity shall be exercised on his behalf by his statutory agent.

The right to inheritance or legacy of a person with limited capacity shall be exercised on his behalf by his statutory agent or by such person himself after obtaining the consent of his statutory agent.

Article 7 A successor shall be disinherited upon his commission of any one of the following acts:

- (1) intentional killing of the decedent;
- (2) killing any other successor in fighting over the estate;
- (3) a serious act of abandoning or maltreating the decedent; or
- (4) a serious act of forging, tampering with or destroying the will.

第八条 继承权纠纷提起诉讼的期限为二年,自继承人知道或者应当知道其权利被侵犯之日起计算。但是,自继承开始之日起超过二十年的,不得再提起诉讼。

第二章 法定继承

第九条 继承权男女平等。

第十条 遗产按照下列顺序继承:

第一顺序:配偶、子女、父母。

第二顺序:兄弟姐妹、祖父母、外祖父母。

继承开始后,由第一顺序继承人继承,第二顺序继承人不继承。没有第一顺序继承人继承的,由第二顺序继承人继承。

本法所说的子女,包括婚生子女、非婚生子女、养子女和有扶养关系的继子女。

本法所说的父母,包括生父母、养父母和有扶养关系的继父母。

本法所说的兄弟姐妹,包括同父母的兄弟姐妹、同父异母或者同母异父的兄弟姐妹、养兄弟姐妹、有扶养关系的继兄弟姐妹。

Article 8 The time limit for institution of legal proceedings pertaining to disputes over the right to inheritance is two years, counting from the day the successor became or should have become aware of the violation of his right to inheritance. No legal proceedings, however, may be instituted after the expiration of a period of 20 years from the day succession began.

Chapter II Statutory Succession

Article 9 Males and females are equal in their right to inheritance.

Article 10 The estate of the decedent shall be inherited in the following order:

First in order: spouse, children, parents.

Second in order: brothers and sisters, paternal grand parents, maternal grandparents.

When succession opens, the successor(s) first in order shall inherit to the exclusion of the successor(s) second in order. The successor(s) second in order shall inherit in default of any successor first in order.

The “children” referred to in this Law include legitimate children, illegitimate children and adopted children, as well as step-children who supported or were supported by the decedent.

The “parents” referred to in this Law include natural parents and adoptive parents, as well as step-parents who supported or were supported by the decedent.

The “brothers and sisters” referred to in this Law include blood brothers and sisters, brothers and sisters of half blood, adopted brothers and sisters, as well as step-brothers and step-sisters who supported or were supported by the decedent.

第十一条 被继承人的子女先于被继承人死亡的,由被继承人的子女的晚辈直系血亲代位继承。代位继承人一般只能继承他的父亲或者母亲有权继承的遗产份额。

第十二条 丧偶儿媳对公、婆,丧偶女婿对岳父、岳母,尽了主要赡养义务的,作为第一顺序继承人。

第十三条 同一顺序继承人继承遗产的份额,一般应当均等。

对生活有特殊困难的缺乏劳动能力的继承人,分配遗产时,应当予以照顾。

对被继承人尽了主要扶养义务或者与被继承人共同生活的继承人,分配遗产时,可以多分。

有扶养能力和有扶养条件的继承人,不尽扶养义务的,分配遗产时,应当不分或者少分。

继承人协商同意的,也可以不均等。

第十四条 对继承人以外的依靠被继承人扶养的缺乏劳动能力又没有生活来源的人,或者继承人以外的对被继承人扶养较多的人,可以分给他们适当的遗产。

第十五条 继承人应当本着互谅互让、和睦团结的精神,协商处理继承问题。遗产分割的时间、办法和份额,由

Article 11 Where a decedent survived his child, the direct lineal descendants of the predeceased child shall inherit in subrogation. Descendants who inherit in subrogation generally shall take only the share of the estate their father or mother is entitled to.

Article 12 Widowed daughters-in-law or sons-in-law who have made the predominant contributions in maintaining their parents-in-law shall, in relationship to their parents-in-law, be regarded as successors first in order.

Article 13 Successors same in order shall, in general, inherit in equal shares.

At the time of distributing the estate, due consideration shall be given to successors who are unable to work and have special financial difficulties.

At the time of distributing the estate, successors who have made the predominant contributions in maintaining the decedent or have lived with the decedent may be given a larger share.

At the time of distributing the estate, successors who had the ability and were in a position to maintain the decedent but failed to fulfil their duties shall be given no share or a smaller share of the estate.

Successors may take unequal shares if an agreement to that effect is reached among them.

Article 14 An appropriate share of the estate may be given to a person, other than a successor, who depended on the support of the decedent and who neither can work nor has a source of income, or to a person, other than a successor, who was largely responsible for supporting the decedent.

Article 15 Questions pertaining to succession should be dealt with through consultation by and among the successors in the spirit of mutual understanding and mutual accommodation, as well as of amity

继承人协商确定。协商不成的,可以由人民调解委员会调解或者向人民法院提起诉讼。

第三章 遗嘱继承和遗赠

第十六条 公民可以依照本法规定立遗嘱处分个人财产,并可以指定遗嘱执行人。

公民可以立遗嘱将个人财产指定由法定继承人的一人或者数人继承。

公民可以立遗嘱将个人财产赠给国家、集体或者法定继承人以外的人。

第十七条 公证遗嘱由遗嘱人经公证机关办理。

自书遗嘱由遗嘱人亲笔书写,签名,注明年、月、日。

代书遗嘱应当有两个以上见证人在场见证,由其中一人代书,注明年、月、日,并由代书人、其他见证人和遗嘱人签名。

以录音形式立的遗嘱,应当有两个以上见证人在场见证。

遗嘱人在危急情况下,可以立口头遗嘱。口头遗嘱应

and unity. The time and mode for partitioning the estate and the shares shall be decided by the successors through consultation. If no agreement is reached through consultation, they may apply to a People's Mediation Committee for mediation or institute legal proceedings in a People's Court.

Chapter III Testamentary Succession and Legacy

Article 16 A citizen may, by means of a will made in accordance with the provisions of this Law, dispose of the property he owns and may appoint a testamentary executor for the purpose.

A citizen may, by making a will, designate one or more of the statutory successors to inherit his personal property.

A citizen may, by making a will, donate his personal property to the State or a collective, or bequeath it to persons other than the statutory successors.

Article 17 A notarial will is one made by a testator through a notary agency.

A testator-written will is one made in the testator's own handwriting and signed by him, specifying the date of its making.

A will written on behalf of the testator shall be witnessed by two or more witnesses, of whom one writes the will, dates it and signs it along with the other witness or witnesses and with the testator.

A will made in the form of a sound-recording shall be witnessed by two or more witnesses.

A testator may, in an emergency situation, make a nuncupative will, which shall be witnessed by two or more witnesses. When the emergency situation is over and if the testator is able to make a will in

当有两个以上见证人在场见证。危急情况解除后,遗嘱人能够用书面或者录音形式立遗嘱的,所立的口头遗嘱无效。

第十八条 下列人员不能作为遗嘱见证人:

(一)无行为能力人、限制行为能力人;

(二)继承人、受遗赠人;

(三)与继承人、受遗赠人有利害关系的人。

第十九条 遗嘱应当对缺乏劳动能力又没有生活来源的继承人保留必要的遗产份额。

第二十条 遗嘱人可以撤销、变更自己所立的遗嘱。

立有数份遗嘱,内容相抵触的,以最后的遗嘱为准。

自书、代书、录音、口头遗嘱,不得撤销、变更公证遗嘱。

第二十一条 遗嘱继承或者遗赠附有义务的,继承人或者受遗赠人应当履行义务。没有正当理由不履行义务的,经有关单位或者个人请求,人民法院可以取消他接受遗产的权利。

第二十二条 无行为能力人或者限制行为能力人所立的遗嘱无效。

遗嘱必须表示遗嘱人的真实意思,受胁迫、欺骗所立的遗嘱无效。

伪造的遗嘱无效。

遗嘱被篡改的,篡改的内容无效。